

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MCKINLEY PIERCE ATKINS,

Plaintiff,

v.

E. ROCHA, et al.,

Defendants.

No. 1:20-cv-00193-ADA-CDB (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(ECF No. 52)

Plaintiff McKinley Pierce Atkins (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action brought pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On September 15, 2022, the then assigned Magistrate Judge issued findings and recommendations, recommending Defendants’ motion for summary judgment be granted for Plaintiff’s failure to exhaust administrative remedies. (ECF No. 52.) Plaintiff was afforded fourteen (14) days to file objections. (*Id.* at 22.) On October 5, 2022, Plaintiff was granted a thirty (30) day extension of time within which to file any objections. (ECF No. 54.) More than 30 days have now passed, and Plaintiff did not file objections.¹

¹ The docket reflects Plaintiff filed a Motion to Stay and for Appointment of Counsel on October 31, 2022; the assigned Magistrate Judge issued an Order denying the motion on November 4, 2022. (ECF No. 57.) In the Order, it was noted that Plaintiff’s filing did not “affect the fact his objections to the pending Findings and Recommendations

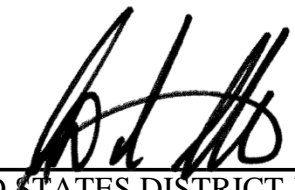
1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a
2 *de novo* review of this case. Having carefully reviewed the file, the Court finds the findings and
3 recommendations to be supported by the record and proper analysis.

4 Accordingly,

- 5 1. The findings and recommendations issued on September 15, 2022, (ECF No. 52),
6 are ADOPTED in full;
- 7 2. Defendants' motion for summary judgment for Plaintiff's failure to exhaust his
8 administrative remedies as to his deliberate indifference claims against Defendants
9 De Lussa and Rios, (ECF No. 47), is GRANTED;
- 10 3. This action is DISMISSED without prejudice for Plaintiff's failure to exhaust
11 administrative remedies prior to filing suit; and
- 12 4. The Clerk of the Court is directed to close this case.

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15 IT IS SO ORDERED.

16 Dated: December 7, 2022


UNITED STATES DISTRICT JUDGE

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28 are due on November 4, 2022. (*Id.* at 3.) In other words, if Plaintiff intends to file objections, he remains obligated to do so timely, and the instant motion does not affect the deadline for filing said objections.” (*Id.*)